

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

-----X

IN RE:

Chapter 13
1-12-13024

KEITH PILLICH

**ORDER TO SHOW CAUSE FOR
DISMISSAL AND RELIEF
FROM AUTOMATIC STAY**

Debtor.

-----X

**ORDER TO SHOW CAUSE FOR RELIEF FROM AUTOMATIC STAY *NUNC
PRO TUNC* PURSUANT TO BANKRUPTCY RULE 4001 AND 11 U.S.C. § 362(d)**

Upon reading and filing the annexed affirmation of Michelle C. Stachura, Esq., dated October 4, 2012, and the exhibits attached thereto, and upon all the pleadings and proceedings heretofore had herein,

LET, the petitioner show cause before this Court in the United States Bankruptcy Court, Western District of New York at the Courthouse located at 300 Pearl Street, Buffalo, New York 14202, on the ____ day of October, 2012 at ____ o'clock in the a.m./p.m. or as soon thereafter as counsel can be heard

WHY an order should not be issued:

1. Pursuant to 11 U.S.C. § 362, granting the Creditor, Waterfall Victoria REO 2011-01, LLC, relief from the automatic stay *nunc pro tunc*, with prejudice, as against the Debtor, Keith Pillich,
2. Permitting Creditor to proceed with its stated remedy to obtain possession of the subject premises or, in the alternative, Creditor respectfully requests that the Court immediately order the surrender of the possession of the subject premises by the Debtor to the Creditor;

3. Granting such other and further relief as this Court deems just and proper under the circumstances.

Sufficient reason appearing therefore, **IT IS HEREBY**

ORDERED, that pending the hearing and determination of this Motion, the

Marshal is permitted to proceed with the eviction of the premises

LET service of a copy of this order together with the papers in support thereof be made upon the Debtor in this matter by certified mail and ordinary mail upon the Debtor on or before the ____ day of October, 2012 be deemed good and sufficient service.

ENTER

Chief Federal Bankruptcy Judge

Dated: Williamsville, New York
October 4, 2012

/s/ *Michelle C. Stachura, Esq.*
Michelle C. Stachura, Esq.
Frenkel, Lambert, Weiss, Weisman & Gordon, LLP
Attorneys for Creditor- Waterfall Victoria REO 2011-01, LLC
Main Office
53 Gibson Street
Bay Shore, New York 11706
Tel: 631-969-3100

TO: Keith Pillich
Pro Se Debtor
8 Eltham Drive
Amherst, NY 14226

United States Trustee
Albert Mogavero, Esq.
The Dunn Building
110 Pearl Street
6th Floor
Buffalo, NY 14202

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

-----x

IN RE:

Chapter 13
1-12-13024

KEITH PILLICH.,

Debtor.

**AFFIRMATION IN SUPPORT
OF CREDITOR'S MOTION**

-----x

MICHELLE C. STACHURA, ESQ., an attorney duly admitted to practice law before this Court, hereby affirms the following under the penalties of perjury:

1. I am an associate in the law firm of Frenkel, Lambert, Weiss, Weisman & Gordon, LLP, attorneys for Creditor, Waterfall Victoria REO 2011-01, LLC, ("Creditor"), who is the owner of the premises located at 8 Eltham Drive, Amherst, NY 14226 ("Premises") where Debtor alleges to occupy the premises. I make this affirmation in support of the Creditor's motion seeking an order lifting the automatic stay *nunc pro tunc*, with prejudice.
2. Creditor's motion to lift the automatic stay *nunc pro tunc*, with prejudice, should be granted because the Creditor has obtained a judgment of possession and warrant of eviction as against the Debtor prior to the filing of the within Bankruptcy Petition.
3. It is evident that the Debtor has abused the protections afforded by bankruptcy simply to avert his pending eviction from the Premises.

STATEMENT OF FACTS

4. On March 8, 2011, Petitioner became the record owner of the premises known as 8 Eltham Drive, Amherst, New York 14226, by virtue of a Referee's Deed. A copy of the deed is attached hereto as **Exhibit "A"**. The Referee's Deed resulted from the prior underlying mortgage foreclosure proceedings commenced on March 12, 2003, which resulted in a Judgment of Foreclosure and Sale, granted on July 21, 2005. A copy of the Judgment of Foreclosure and Sale is attached hereto as **Exhibit "B"**.

5. A Writ of Assistance was sought by the Creditor, record owner, to be put in possession after Debtor and all other named occupants refused to vacate after being duly served with a 10-day Notice to Quit and certified Referee's Deed. Copies of the Affidavits of Service and 10-day Notice to Quit are attached hereto as **Exhibit "C"**. None of the respondents appeared.

6. The Writ of Assistance was granted by the Honorable Christopher J. Burns, J.S.C. on January 27, 2012, which succinctly sets forth the procedural posture of the foreclosure action and the efforts of the defendants in this action to stall the foreclosure action to delay the eventual sale. A copy of the Memorandum Decision and Order is attached hereto as **Exhibit "D"**.

7. Marsha Pillich, the defendant-mortgagor in the underlying foreclosure action, by and through her attorney, David S. Widenor, Esq., filed a Notice of Appeal, dated January 30, 2012 and Order to Show Cause seeking a temporary restraining order. The Appellate Division Fourth Department stayed enforcement of the Writ of Assistance until March 30, 2012 or until seven days after Supreme Court fixes the amount of the

undertaking for an automatic stay. A copy of the Order is attached hereto as **Exhibit “E”**.

8. Thereafter, to further prevent the eviction, as prior efforts were unavailing, the mortgagor, Marsha M. Pillich, wife of the Debtor, filed a Chapter 13 Bankruptcy Petition on June 26, 2012 at 8:00am with case number 1-12-12022. Creditor moved for relief from the stay, which was granted on September 13, 2012. Copies of the Notice of Filing and Order Vacating Stay are attached hereto as **Exhibit “F”**.

9. On the morning of eviction, today, October 4, 2012 at 10:49 am, Debtor filed a Chapter 13 Bankruptcy Petition in the Western District of New York with a case number 1-12-13024.

10. Given the facts of this case, it is clear that the Debtor is not entitled to Bankruptcy protection for the purpose of avoiding eviction from the Premises in question.

11. From the facts and circumstances as outlined above, the Creditor is entitled to having the stay lifted, and to execute on the Writ of Assistance.

12. 11 U.S.C. § 362(d) of the Bankruptcy Code provides: “On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay (1) for cause, including the lack of adequate protection of an interest in property of such party in interest.” 11 U.S.C. § 362(d)(1).

13. Some of the factors to be considered are: “(1) if the creditor had actual or constructive knowledge of the bankruptcy filing and, therefore, of the stay, (2) if the debtor has acted in bad faith, (3) if there was equity in the property of the estate, (4) if the

property was necessary for an effective reorganization, (5) if grounds for relief from the stay existed and a motion, if filed, would likely have been granted prior to the automatic stay violation, (6) if failure to grant retroactive relief would cause unnecessary expense to the creditor, and (7) if the creditor has detrimentally changed its position on the basis of the action taken.” In re WorldCom, Inc., 325 B.R. 511, 521 - 522 (SDNY 2005).

14. Debtor has acted in bad faith and abused the bankruptcy system in order to evade his inevitable eviction from the Premises.

15. The instant petition was a bad faith filing “filed strictly to circumvent pending litigation.” In re Dixie Broadcasting, Inc., 871 F.2d 1023, 1027 (11th Cir. 1989), *see also* Laguna Associates Limited Partnership v. Aetna Casualty & Ins. Co., 30 F.3d 734, 737 (6th Cir. 1994).

16. Furthermore, Debtor’s equitable interest in the Premises was extinguished upon the issuance of the Writ of Assistance. Thus, the Premises may not form part of Debtor’s Bankruptcy Plan. *See* NY RPAPL § 749, In re Roswick, 231 B.R. 843, 855 (SDNY 1999).

17. Creditor requests that an Order be entered lifting the automatic stay with prejudice, *nunc pro tunc*, under Section § 362 of the Bankruptcy Code so as to permit it to exercise and enforce their rights and remedies as owners of the Premises and obtain possession of the property.

18. No prior application has been made for the relief sought herein.

WHEREFORE, Creditor requests that the Court enter an Order granting Creditor the lifting and/or annulment of the automatic stay *nunc pro tunc*, with prejudice, pursuant to 11 U.S.C. §362 to permit the eviction of the Debtor from the Premises.

Dated: Williamsville, New York
October 4, 2012

/s/ *Michelle C. Stachura, Esq.*
Michelle C. Stachura, Esq.
Frenkel, Lambert, Weiss, Weisman & Gordon, LLP
Attorneys for Creditor – Waterfall Victoria REO 2011-01, LLC
Main Office
53 Gibson Street
Bay Shore, New York 11706
Tel: 631-969-3100

REFEREE'S DEED IN FORECLOSURE

This deed, made the eighteenth day of March, Two Thousand Eleven, between Nicholas P. Amigone, 350 Main, Buffalo, New York 14202, referee duly appointed in the action hereinafter mentioned, grantor, and Waterfall Victoria REO 2011-01, LLC, 6302 E. Martin Luther King Boulevard, Tampa, Florida 33619 grantee:

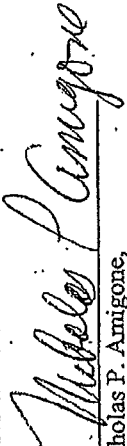
Witnesseth, that the grantor, the referee appointed in an action between Credit-Based Asset Servicing and Securitization, LLC, the plaintiffs, and Marsha Pillich, KeyBank National Association, Deborah Mondoux, Thomas J. Gaffney, Trustee in Bkcy. for Project & Joint Ventures International, Inc. Illos Piano Rebuilders and Music Center, Keith Pillich defendants, foreclosing a mortgage recorded on the 12th day of May, 1999, in the office of the County Clerk of the county of Erie, in liber/reel 12838 of mortgages, at page 4979, in pursuance of a judgment entered at a special term of the Supreme Court, on the 21st day of December, 2004, and in consideration of \$100.00 dollars paid by the grantee, being the highest sum bid at the sale under said judgment, does hereby grant and convey unto the grantee, all See Schedule "A";

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

To have and to hold the premises herein granted unto the grantee, Waterfall Victoria REO 2011-01, LLC and assigns forever.

In witness whereof, the grantor has hereunto set his hand and seal.

In presence of:


Nicholas P. Amigone,

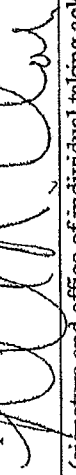
Acknowledgment by a Person Within New York State (RPL § 309-a)

STATE OF NEW YORK)

) ss.:

COUNTY OF ERIE)

On the 22nd day of March, 2011, before me, the undersigned, personally appeared Nicholas P. Amigone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


(signature and office of individual taking acknowledgment)

RICHARD A. CLACK
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 31, 2013

RECORD AND RETURN TO:
Sheldon May & Associates, P.C.
255 Merrick Road
Rockville Centre, New York 11570
File: 21717

Title No.: FC 26909 / CARUS FILE NO. 1146893/10531264

PUBLIC ABSTRACT CORPORATION

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 36, Township 12, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 47 and part of Subdivision Lot No. 48, as shown on a map of Pomeroy Park filed in the Erie County Clerk's Office under Cover No. 1458, bounded and described as follows:

BEGINNING at a point of intersection of the easterly line of Eltham Drive East, with the southerly line of Main Street;

RUNNING THENCE southerly along said line of Eltham Drive East, 130 feet;

RUNNING THENCE easterly along a line drawn parallel with Main Street 180 feet to the easterly line of Subdivision Lot No. 48;

RUNNING THENCE northerly along the easterly line of Subdivision Lot No. 47 and 48, 130 feet to the southerly line of Main Street;

RUNNING THENCE westerly along the southerly line of Main Street, 180 feet to the easterly line of Eltham Drive East at the point of BEGINNING.

FILED

JUL 21 2005

CLERK'S OFFICE

At an IAS Part of the
Supreme Court of the State of New
York, held in and for the County
of ERIE, at the Courthouse
thereof, located at 92 Franklin
Street, Buffalo, New York 14202,
on the _____ day of _____.

P R E S E N T: Hon. Christopher J. Burns

JUSTICE

Index No.
I2003-2388

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Credit-Based Asset Servicing and
Securitization, LLC

Plaintiff

JUDGMENT OF
FORECLOSURE AND
SALE

-against-

COPY

Marsha Pillich, KeyBank National
Association, Deborah Mondoux, Thomas J.
Gaffney, Trustee in Bkcy. for Project E,
Joint Ventures International, Inc., Illos
Piano Rebuilders and Music Center, Keith
Pillich,

Defendants

----- X

Upon reading and filing the Notice of Motion dated
June 9, 2004 the summons, verified complaint and Notice of
pendency of action heretofore filed herein on March 12,
2003, the affidavits of service of the summons upon some of
the defendants and the notices of appearance of other
defendants, all of which were duly filed with the Clerk of
the Court, and more particularly referred to in the
affirmation of regularity of Edward C. Klein, an attorney
with the law firm of CARUS & MANNIELLO, P.C., the
attorney(s) for plaintiff, dated June 9, 2004, from which
affirmation it appears that this is an action to foreclose a

mortgage upon real property situate within the County of
ERIE, State of New York; that the whole amount thereon, as
alleged in the verified complaint, is presently due and
owing, with interest thereon, as therein alleged; and upon a
prior Order of this Court dated December 19, 2003 appointing
Nicholas P. Amigone, Esq. as Referee to ascertain and
compute the amount due to plaintiff, and to examine and
report whether the mortgaged premises can be sold in one
parcel, by which report, duly filed simultaneously herewith,
the said Referee has reported that the sum \$236,752.18 is
due and owing to plaintiff as of January 31, 2004; and upon
reading and filing the additional affirmation of Edward C.
Klein, dated June 9, 2004 wherein application is made for an
award of legal fees incident to foreclosure on behalf of
Plaintiff; and that the mortgaged premises should be sold in
one parcel; that the time for each and all of the defendants
to answer or move with respect to the complaint has expired
and that the same has not been extended, and that each and
all of the defendants are in default herein, except the
defendants KeyBank National Association, Thomas J. Gaffney,
Trustee in Bkcy. for Project 6, Joint Ventures
International, Inc., Illos Piano Rebuilders and Music
Center, who appeared by attorney and waived service of
all papers upon this application; and Marsha Pillich who
interposed an Answer, which Answer was, stricken by a prior
order of this court, and that none of the defendants is an
infant, incompetent or absentee; and no one being entitled
to notice

of this application except Marsha Pillich, Deborah Mondoux, Keith Pillich, and the same having regularly come on to be heard before this Court, now after due deliberation having been had,

NOW, on motion of CARUS & WANNIELLO, P.C., attorney(s) for plaintiff, it is

ORDERED, ADJUDGED AND DECREED, that the motion be and the same is hereby in all respects granted; and it is further

ORDERED, ADJUDGED AND DECREED, that the report of the Referee, aforesaid, be and it hereby is in all respects ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED, that the plaintiff have judgment herein for the sum of \$236,752.18 together with interest thereon from January 31, 2004, together with the sum of \$2,780.00, as taxed by the Clerk of the Court and inserted herein and hereby adjudged to the plaintiff for costs and disbursements in this action, with interest thereon from the date hereof, together with an additional allowance of \$, hereby awarded to plaintiff in addition to the costs and disbursements, with interest thereon from the date hereof; and it is further

ORDERED, ADJUDGED AND DECREED that the Plaintiff be and it hereby is awarded as and for reasonable legal fees

incident to foreclosure the sum of \$ 3,000.00 ; and is hereby granted leave to make such other and further application to this Court for an additional award of legal fees as it deems appropriate; and it is further

ORDERED, ADJUDGED AND DECREED, that the mortgaged premises described in the verified complaint, as hereinafter described, be sold in one parcel, in its as is condition on the date of sale, subject to any zoning restrictions and any amendments thereto, according to law, and now in force; subject to covenants, restrictions, agreements, reservations and easements of record, if any, and municipal departmental violations, if any, any sale to be held hereunder will be subject to the rights of the United States of America to redeem, if any, at public auction at the foreclosure alcove, Erie County Hall, 92 Franklin Street Buffalo, New York 14202, in the County of ERIE, State of New York, by and under the direction of Nicholas P. Amigone, Esq., who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of said sale according to law and the practice of this Court in the

Buffalo Law Journal (newspaper)
that the plaintiff or any other party to this action may become the purchaser at such sale; that in the event the plaintiff shall become the purchaser at said sale, it shall not be required to make any deposit thereon; that said Referee execute to the purchaser or purchasers on such sale a deed of the premises sold; that the Referee on receiving the proceeds of the sale shall forthwith pay therefrom the

taxes, assessments, water rates or sewer rents which are or may become liens on the premises with such interest or penalties which may lawfully have accrued thereon to the day of payment; that the Referee then deposit the balance of the proceeds of this sale in his own name as Referee in


a bank of the Referee's choosing (bank)

and shall thereafter make the following payments and his checks drawn for that purpose shall be paid by the said depository:

1. A sum not exceeding \$500.00 to the said Referee as and for his fees herein;

2. The expenses of the sale and advertising expenses as shown on bills presented by said Referee;

3. The sum of \$ 27,780.00 to the plaintiff or its attorney, adjudged to the plaintiff for costs and disbursements in this action, to be taxed by the Clerk of the Court with interest thereon from the date of entry hereof together with ~~additional allowance of~~

 ~~hereinafter awarded to the plaintiff in~~ \$ addition to costs, ~~with interest thereon from the date of entry hereof;~~ plus the sum of \$ 3,000.00 demanded for reasonable attorneys fee and also the sum of \$236,752.18, the amount reported as aforesaid, together with interest thereon from January 31, 2004, such advances as the

plaintiff shall have made for taxes, interest and penalties thereon, if any, mortgage insurance premiums, fire and other casualty insurance, and such other expenses incurred, including but not limited to repairs, maintenance, boarding and securing the premises, if any, for the protection of the said premises, or so much thereof as the purchase money of the mortgaged premises will pay the same. That in case the plaintiff be the purchaser of said mortgaged premises at said sale, or in the event that the rights of the purchaser, or its assignee, at said sale and the terms of sale under this judgment shall be assigned to and be acquired by the plaintiff, and a valid assignment thereof filed with said Referee, said Referee shall not require the plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the plaintiff a deed or deeds of the premises sold upon payment to the

said Referee of the amounts specified above in items marked "1" and "2" and the amounts of the aforesaid taxes, assessments and water rents and interest or penalties thereon, or in lieu of the payment of said last mentioned amounts, upon filing with said Referee receipts of the proper municipal authorities showing the payment thereof; or an affidavit by plaintiff setting forth that payment has been made; provided however plaintiff shall not be required to pay said taxes, assessments and water rents unless same are due and payable on the date of sale, or any adjourned date thereof, irrespective of the date upon which same have become or may be a lien upon the said premises; that the

balance of the amount bid after deduction therefrom the aforesaid amounts paid by the plaintiff for Referee's fees, advertising expenses and taxes, assessments, water rates and sewer rents, shall be allowed to the plaintiff and applied by the Referee upon the amounts due to the Plaintiff as specified above in item marked "3"; that if, after so applying the balance of the amount bid, there shall be a surplus over and above the said amounts due to the plaintiff, the plaintiff shall pay to the Referee upon delivery to it of the said Referee's deed, the amount of such surplus; that the Referee on receiving said several amounts from the plaintiff shall forthwith pay therefrom said taxes, assessments, water rates, sewer rents, and interest or penalties thereon, unless the same shall have already been paid, and shall deposit the balance, if any, in said depository as hereinabove directed. That said Referee take the receipt of the plaintiff or its attorney for the amounts paid as hereinbefore directed, in item marked "3", and file it with his Report of Sale; that he deposit the surplus monies, if any, with the

bank of the Referee's choice (bank)
within five days after the same shall be received and be ascertainable, to the credit of this action, to be withdrawn only on the Order of this Court, signed by a Judge thereof; that the Referee shall make a report of such sale and file it with the Clerk of the County in which this action is pending, with all convenient speed; that if the proceeds of such sale be insufficient to pay the amount so reported due to the plaintiff with the expenses of the sale, interest,

costs and allowances, as aforesaid, the Referee shall specify the amount of such deficiency in his Report of Sale and it is further

ORDERED, that the Plaintiff recover of the Defendant(s) Marsha Pillich the whole deficiency or so much thereof as the Court may determine to be just and equitable of the residue of the Mortgage debt remaining unsatisfied, after a sale of the Mortgaged premises and the application of the proceeds thereof, provided a motion for a deficiency Judgment shall be made as prescribed by Section 1371 of the Real Property Actions and Proceedings Law within the time limited therein, and the amount thereof determined and awarded by an order of this Court as provided for in said section; and it is further

ORDERED, that the purchaser or purchasers at said sale be let into possession on production of the Referee's deed or deeds; and it is further

ORDERED, ADJUDGED AND DECREED that the Plaintiff and/or Referee may apply to this Court for such other and further relief as may be necessary under the premises, including but not limited to, an application by the Referee for an award of additional fees and an award to Plaintiff of legal fees; and it is further

ORDERED, ADJUDGED AND DECREED, that each and all of the

defendants in this action and all persons by, through or claiming under them or any or either of them, after the filing of the notice of the pendency of this action, be and they hereby are forever barred and foreclosed of all right, claim, lien, title, interest and equity of redemption in said mortgaged premises, and each and every part thereof. The following is a description of the said mortgaged premises hereinbefore mentioned:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 36, Township 12, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 47 and part of subdivision Lot No. 48, as shown on a map of Pomeroy Park filed in the Erie County Clerk's Office under Cover No. 1458, bounded and described as follows:

BEGINNING at a point of intersection of the easterly line of Eltham Drive East, with the southerly line of Main

Street;

RUNNING THENCE southerly along said line of Eltham Drive East, 130 feet;

RUNNING THENCE easterly along a line drawn parallel with Main Street 180 feet to the easterly line of Subdivision

Lot No. 48;

RUNNING THENCE northerly along the easterly line of Subdivision Lot No. 47 and 48, 130 feet to the southerly line of Main Street;

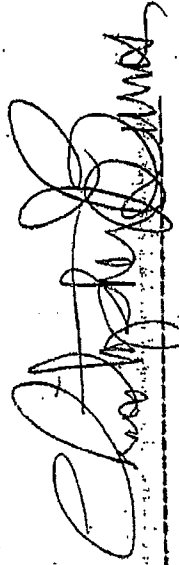
RUNNING THENCE westerly along the southerly line of Main Street, 180 feet to the easterly line Eltham Drive East

at the point of BEGINNING.

Said premises being known as and by street address:

8 Eltham Drive, Amherst, New York 14226

E N T E R

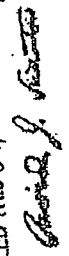


J.S.C.
CHRISTOPHER J. BURNS, J.S.C.

GRANTED

DEC 21 2004

BY 
SHARON A. SIETKA
COUNTY CLERK

JUDGEMENT SIGNED AND FILED THIS 21 DAY OF July 2005
 COUNTY CLERK

Loan No.: NY020421

Property Address:

8 ELTHAM DRIVE
AMHERST, NEW YORK 14226

Exhibit "A"

Legal Description

X ALL that tract or parcel of land, situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 36, Township 12, Range 7 of the Holland Land Company's Survey and further distinguished as Subdivision Lot No. 47 and part of Subdivision Lot No. 48, as shown on a map of Pomeroy Park filed in the Erie County Clerk's Office under Cover No. 1458, bounded and described as follows:

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RUNNING THENCE northerly along the easterly line of Subdivision Lots No. 47 and 48, 130 feet to the southerly line of Main Street;

RUNNING THENCE westerly along the southerly line of Main Street, 180 feet to the easterly line of Eltham Drive East at the point of BEGINNING. X

AFFIDAVIT OF SERVICE, AFFIX TO DOOR SERVICE

County of:
Index #:
Date Purchased:

Plaintiff/Petitioner:

Waterfall Victoria REO 2011-01, LLC

Defendant/Respondent:

vs:

Marsha Pillich, et.al.

State of: NY
County of: Niagara

Andrew D. Zimmermann, being duly sworn, deposes and says: that deponent is not a party to this action, is over 18 years of age and resides at: Tonawanda, NY that on 9/1/2011 at 4:45pm at: 8 Eltham Drive, Amherst, NY 14226 deponent served the within:

Ten (10) Day Notice To Vacate, Alternative Ninety (90) Day Notice And Certified Referee's Deed

Return Date if any:

DN: Marsha Pillich

ENTERING TO
DOCUMENT

By affixing a true copy of each to the door of said premises, which is Defendant's, Dwelling house within the state. Deponent was unable, with due diligence to find Defendant or a person of suitable age and discretion, having called thereat:

8/30/2011 @ 5:24pm, 8/31/2011 @ 6:01pm, 9/1/2011 @ 7:21am, 9/1/2011 @ 4:45pm Spoke to Mr Georger, Male, White, 170-200lbs, 5'9"-6'0" 50-65yrs old Gray hair

Deponent completed service under the last two sections by depositing a copy of the same to the above address in a First Class post paid properly addressed envelope marked "Personal & Confidential" in an official depository under the exclusive care and custody of the U.S.P.O. in the State of N.Y., on: 9/2/2011 , In Addition a Certified Mailing was also sent to Respondant on: 9/2/2011, Article Number: 70092250000398570229

\$ the authorizing traveling expenses and one day's witness fee was paid(tendered) to the Defendant.

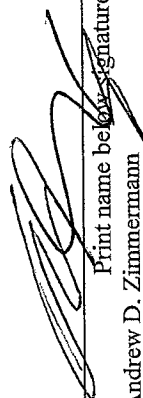
Person spoken to: Neighbor at 18 Eltham,

Deponent asked, the person spoken to if the Defendant was presently in the military service of the United States Government or on active duty in the military service in the State of New York and was informed he/she was not.

Desc Main

Sworn to before me on this: 9/2/2011

Notary Public


Print name below signature
Andrew D. Zimmermann ss

JOSEPH A. DINGEY, JR.
Notary Public, State of New York
No. 01D16078795
Qualified in Niagara County
Commission Expires August 5, 2014

201109120

Client File#: 41744

Doc# 10/04/12 Entered 10/04/12 16:04:11
PAGE 24 of 46
MILITARY SERVICE ☒

AFFIDAVIT OF SERVICE, AFFIX TO DOOR SERVICE

County of:
Index #:
Date Purchased:

Petitioner:

Interfall Victoria REO 2011-01, LLC

Respondent:

Marsha Pillich, et.al.

County of: NY

County of: Niagara

Andrew D. Zimmermann, being duly sworn, deposes and says: that deponent is not a party to this action, over 18 years of age and resides at: Tonawanda, NY on: 9/1/2011 at 4:45pm at 8 Eltham Drive, Amherst, NY 14226

Deponent served the within:

(10) Day Notice To Vacate, Alternative Ninety (90) Day Notice And Certified Referee's Deed

Return Date if any:

Deborah Mondoux

By affixing a true copy of each to the door of said premises, which is Defendant's, Last Known Address within the state. Deponent was unable, with due diligence to find Defendant or a person of suitable age and discretion, having called thereat:

8/30/2011 @ 5:21pm, 8/31/2011 @ 6:01pm, 9/1/2011 @ 7:21am, 9/1/2011 @ 4:45pm Spoke to Mr Georger, Male, White, 170-200lbs, 5'9"-6'0" 50-65yrs old Gray hair

Deponent completed service under the last two sections by depositing a copy of the same to the above address in a First Class post paid properly addressed envelope marked "Personal & Confidential" in an official depository under the exclusive care and custody of the U.S.P.O. in the State of N.Y., on: 9/2/2011, In Addition a Certified Mailing was also sent to Respondant on: 9/2/2011, Article Number: 70092250000398570236

\$ the authorizing traveling expenses and one day's witness fee was paid(tendered) to the Defendant.

Person spoken to: Neighbor at 18 Eltham, Deponent asked, the person spoken to if the Defendant was presently in the military service of the United States Government or on active duty in the military service in the State of New York and was informed he/she was not.

Subscribed and sworn to before me on this 9/2/2011

Notary Public

Print name below signature

Andrew D. Zimmermann

ss

JOSEPH A. DINGEY, JR.
Notary Public, State of New York
No. 01D16078795
Qualified in Niagara County
Commission Expires August 5, 2014

201109121

Client File#: 41744

AFFIDAVIT OF SERVICE, AFFIX TO DOOR SERVICE

County of:
Index #:
Date Purchased:

Plaintiff/Petitioner:

Interfall Victoria REO 2011-01, LLC

Defendant/Respondent:

Arsha Dillich, et.al.

vs:

County of: Niagara

Andrew D. Zimmermann, being duly sworn, deposes and says: that deponent is not a party to this action, over 18 years of age and resides at: Tonawanda, NY
on: 9/1/2011 at 4:45pm at: 8 Eltham Drive, Amherst, NY 14226
deponent served the within:

(10) Day Notice To Vacate, Alternative Ninety (90) Day Notice And Certified Referee's Deed

Return Date if any:

Arsha Dillich

Document Page 26 of 46

By affixing a true copy of each to the door of said premises, which is Defendant's, Dwelling house within the state. Deponent was unable, with due diligence to find Defendant or a person of suitable age and discretion, having called thereat:

8/30/2011 @ 5:21pm, 8/31/2011 @ 6:01pm, 9/1/2011 @ 7:21am, 9/1/2011 @ 4:45pm Spoke to Mr Georger, Male, White, 170-200lbs, 5'9"-6'0" 50-65yrs old Gray hair

Deponent completed service under the last two sections by depositing a copy of the same to the above address in a First Class post paid properly addressed envelope marked "Personal & Confidential" in an official depository under the exclusive care and custody of the U.S.P.O. in the State of N.Y., on: 9/2/2011 ,
In Addition a Certified Mailing was also sent to Respondant on: 9/2/2011, Article Number: 70092250000398570243

\$ the authorizing traveling expenses and one day's witness fee was paid(tendered) to the Defendant.

Person spoken to: Neighbor at 18 Eltham,
Deponent asked, the person spoken to if the Defendant was presently in the military service of the United States Government or on active duty in the military service in the State of New York and was informed he/she was not.

Desc Main

Turn to before me on this: 9/2/2011
Notary Public

Print name below signature
Andrew D. Zimmermann
ss

JOSEPH A. DINGEY, JR.
Notary Public, State of New York
No. 01D16078795

201109122

Client File#: 41744

Qualified in Niagara County
Commission Expires August 5, 2014

AFFIDAVIT OF SERVICE AFFIX TO DOOR

County of: _____
 Index #: _____
 Date Purchased: _____

Petitioner:
 Terfall Victoria REO 2011-01, LLC

Defendant/Respondent:

Arsha Pillich, et.al.

vs:

County of: NY
 State of: NY
 I, Andrew D. Zimmermann, being duly sworn, deposes and says: that deponent is not a party to this action,
 over 18 years of age and resides at: Tonawanda, NY
 on: 9/1/2011 at 4:45pm at: 8 Eltham Drive, Amherst, NY 14226
 Deponent served the within:

(10) Day Notice To Vacate, Alternative Ninety (90) Day Notice And Certified Referee's Deed

Return Date if any:

"John Doe"

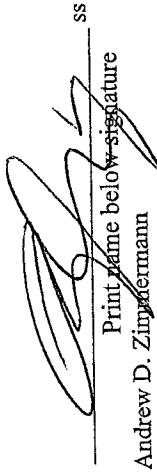
By affixing a true copy of each to the door of said premises, which is Defendant's, Dwelling house within the state. Deponent was unable, with due diligence to find Defendant or a person of suitable age and discretion, having called thereat: 8/30/2011 @ 5:21pm, 8/31/2011 @ 6:01pm, 9/1/2011 @ 7:21am, 9/1/2011 @ 4:45pm Spoke to Mr Georger, Male, White, 170-200lbs, 5'9"-6'0" 50-65yrs old Gray hair

Deponent enclosed a copy of the same in a first class postpaid envelope, marked "Personal & Confidential", properly addressed to the last known address: 8 Eltham Drive, Amherst, NY, 14226; and deposited in an official depository under the exclusive care and custody of the U.S.P.O. in N.Y. State, on: 9/2/2011, if Certified #:

\$ the authorizing traveling expenses and one day's witness fee was paid(tendered) to the Defendant.

Person spoken to: Neighbor at 18 Eltham,
 Deponent asked, the person spoken to if the Defendant was presently in the military service of the United States Government or on active duty in the military service in the State of New York and was informed he/she was not.


 Notary Public


 Print name below signature
 Andrew D. Zimmermann ss

JOSEPH A. DINGEY, JR.
 Notary Public, State of New York
 No. 01DI6078795
 Qualified in Niagara County
 Commission Expires August 5, 2014

201109124

Client File#: 41744

AFFIDAVIT OF SERVICE AFFIX TO DOOR

County of:
Index #:
Date Purchased:

Petitioner:

aterfall Victoria REO 2011-01, LLC

endant/Respondent:

arsha Pillich, et.al.

e of: NY

nty of: Niagara

Andrew Zimmermann, being duly sworn, deposes and says: that deponent is not a party to this action,
over 18 years of age and resides at: Tonawanda, NY
on: 9/1/2011 at 4:45pm at: 8 Eltham Drive, Amherst, NY 14226
onent served the within:

(10) Day Notice To Vacate, Alternative Ninety (90) Day Notice And Certified Referee's Deed

Return Date if any:

Doc Doe"

Doc TO

Document

ILIN

Page 28 of 46

Entered 10/04/12

WITNESS FEE

Defendant.

Person spoken to: Neighbor at 18 Eltham,

Deponent asked, the person spoken to if the Defendant was presently in the military service of the United States Government or on active duty in the military service in the State of New York and was informed he/she was not.

orn to before me on this: 9/2/2011

JOSEPH A. DUNCAN, JR.
Notary Public, State of New York
No. 01DI6078795

Qualified in Niagara County
Commission Expires August 5, 2014

Print name below signature
Andrew D. Zimmermann

ss

201109125

Client File#: 41744

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$0.64
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$3.49

Sent To: Marsha Pillich
 Street, Apt. No.,
 or PO Box No. 8 Eltham Drive
 City, State, ZIP+4[®] Amherst NY 14206

PS Form 3800, August 2006 See Reverse for Instructions

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$0.64
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$3.49

Sent To: Deborah Mondoux
 Street, Apt. No.,
 or PO Box No. 8 Eltham Drive
 City, State, ZIP+4[®] Amherst, NY 14206

PS Form 3800, August 2006 See Reverse for Instructions

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$0.64
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$3.49

Sent To: Keith Pillich
 Street, Apt. No.,
 or PO Box No. 8 Eltham Drive
 City, State, ZIP+4[®] Amherst, NY 14206

PS Form 3800, August 2006 See Reverse for Instructions



Certificate of Mail

AV 9124

This cert.
this form
From:

— P.O. Box 428
— North Tonawanda, NY 14120

Hasler

09/02/2011

US POSTAGE

\$01.15⁰



To: "John Doe"
8 Eltham Drive
Amherst, NY 14226

PS Form 3817, April 2007 PSN 7530-02-000-9065



Certificate of Mail
or mail

AV 9125

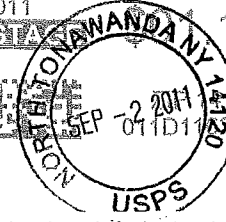
To: P.O. Box 428
North Tonawanda, NY 14120

Hasler

09/02/2011

US POSTAGE

\$01.15⁰



To: "Jane Doe"
8 Eltham Drive
Amherst, NY 14226

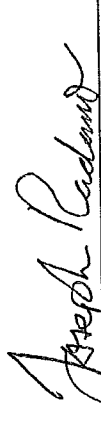
PS Form 3817, April 2007 PSN 7530-02-000-9065

CERTIFICATION BY ATTORNEY

Joseph Radano, Esq., an attorney duly admitted to practice law before the Courts of the State of New York, and an associate with the firm of Frenkel, Lambert, Weiss, Weisman & Gordon, LLP, attorneys for the present owner, pursuant to Uniform Rule Section 130-1.1.1-a, states as follows:

I hereby certify, under the penalty of perjury and as an officer of the Court, that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the within paper or the contentions therein are not frivolous as defined in subsection (c) of Section 130-1.1.1-a, including that the substance of the factual statements therein are not false.

Dated: Bay Shore, New York
September 14, 2011

A handwritten signature in cursive script, reading "Joseph Radano", written over a horizontal line.

Joseph Radano, Esq. of
Frenkel, Lambert, Weiss, Weisman & Gordon, LLP

August 25, 2011

TO: Marsha Pillich, KeyBank National Association, Deborah Mondoux, Thomas J. Gaffney,
Trustee in Bkcy. for Project & Joint Ventures International, Inc., Illos Piano Rebuilders
and Music Center, Keith Pillich, "JOHN DOES" "JANE DOES"
RESIDING AT:

8 Eltham Drive, Amherst, NY 14226

**NOTICE OF FORECLOSURE &
TENANT'S RIGHTS UNDER FEDERAL LAW**

NOTICE IS HEREBY GIVEN THAT the Premises located at 8 Eltham Drive, Amherst, NY 14226, now occupied by you, has been deeded to Waterfall Victoria REO 2011-01, LLC, pursuant to a Judgment of Foreclosure and Sale in an action brought against Marsha Pillich in the Supreme Court of the County of Erie and that title under the foreclosure has been duly transferred and that an original attorney certified copy of the referee's deed, dated delivered pursuant to said sale is attached hereto as an exhibit.

NOTICE IS FURTHER GIVEN THAT the Federal "Protecting Tenants at Foreclosure Act of 2010" ("PTFA") grants certain rights and protections to any occupant of the remises who is a "bona fide" tenant, as defined by the PTFA. The rights and protections of the PTFA include the giving of a 90 day Notice to Vacate. Waterfall Victoria REO 2011-01, LLC is informed and believes that no occupant of the Premises is a "bona fide" tenant as defined by the PTFA. This Notice is given to provide any occupant the opportunity, prior to the commencement of the eviction action for possession, to provide evidence to show that the occupant is entitled to the protection of the PTFA.

TEN (10) DAY NOTICE TO VACATE

Waterfall Victoria REO 2011-01, LLC is now the owner of the Premises and demands that, **BY SEPTEMBER 12, 2011** a date at least ten (10) days after service on you of this Notice you and all occupants EITHER produce acceptable evidence to the law firm listed on Page 2 of this Notice that the occupant is entitled to the protections of the PTFA OR you are required to vacate and surrender possession of the Premises, to Waterfall Victoria REO 2011-01, LLC through Jean-Michael Reed, its agent, who can be reached at 716-819-4200 from 9:00 a.m. to 5:00 p.m. on all business days. **Failure to supply the acceptable evidence or to vacate within that time will result in an eviction proceeding being filed for possession of the Premises.** Please see Page 2 of this Notice for instructions on how to deliver this evidence.

ALTERNATIVE NINETY (90) DAY NOTICE

In the event any occupant of the Premises is a tenant under NY law or bona fide tenant as defined by PTFA, this letter is the NINETY (90) DAY Notice to Vacate as required by PTFA. This notice also constitutes notice to vacate to be given tenants as required by NY law.

Thus, all occupants are required within **ten (10) days** after receipt by you of this Notice EITHER to produce acceptable evidence to this law firm that the occupant is entitled to the protections of the PTFA OR to vacate and surrender possession of the Premises to Waterfall Victoria REO 2011-01, LLC through Jean-Michael Reed, its agent, who can be reached at 716-819-4200 from 9:00 a.m. to 5:00 p.m. on all business days. Failure to supply the acceptable evidence or to vacate within that time will result in an eviction proceeding for possession of the Premises being filed. Please see the next paragraph for instructions on how to supply this evidence. **THE EVICTION WILL BE FILED UPON EXPIRATION OF THE TIME SET FORTH IN THIS NOTICE UNLESS THIS FIRM AGREES IN WRITING NOT TO COMMENCE THE EVICTION**

BONA FIDE TENANT INFORMATION

IF YOU BELIEVE YOU QUALIFY AS A BONA FIDE TENANT UNDER PTFA of the prior owner, you must provide the following documents:

- (1) A copy of your lease (or, if your lease is oral, proof of rent payment)
- (2) A return phone number and the best time to reach you
- (3) The receipt for the last six (6) payments made to the landlord for the residence (or the length of time you have resided in the property, if less than six (6) months)

by mail, fax, or in person to:

FRENKEL, LAMBERT, WEISS, WEISMAN & GORDON, LLP
20 WEST MAIN STREET
BAY SHORE, NY 11706
ATTN: Joseph Radano, Esq.

For any questions, please call (number) 631-969-3100

Very truly yours,



Name: Jack Ross

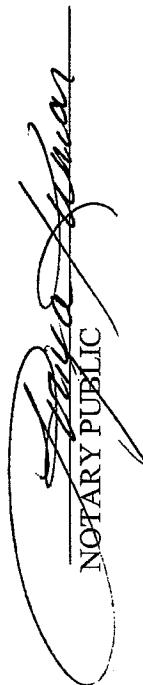
Title: Principal

Present owner, Waterfall Victoria REO 2011-01, LLC

Our File No.: 01-041744-E00

STATE OF New York)
COUNTY OF New York) ss.:
)

On the 24th day of August in the year 2011 before me, the undersigned, personally appeared, Jack Ross personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


NOTARY PUBLIC

PRIYA KUMAR
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01KU6228198
Qualified in New York County
My Commission Expires September 13, 2014

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

CREDIT-BASED ASSET SERVICING
AND SECURITIZATION, LLC,

Plaintiff

vs.

Index No. 03-2388

MARSHA PILLICH, et al.,

Defendants.

Appearances:

Drew & Drew, LLP of counsel to
Sheldon May & Associates, P.C.
By: Dean M. Drew, Esq.
Attorneys for Plaintiff

Frankel, Lambert, Weiss, Weisman
& Gordon, LLP
By: Joseph Radano, Esq. and
Patricia Esdinsky, Esq., local counsel
Attorneys for Plaintiff

David S. Widenor, Esq.
Attorney for Defendant

MEMORANDUM DECISION AND ORDER

BURNS, CHRISTOPHER J., J.S.C.

On or about, October 13, 2011, the Plaintiff¹ filed a Notice of Motion

¹ Although the Caption identifies plaintiff as Credit-Based Asset Servicing and Securitization, LLC, that entity assigned the instant mortgage to Waterfall Victoria Master Fund, Ltd. on or about August 6, 2010 after the judgment of foreclosure had been granted but prior to the sale being conducted. Thus, Waterfall is the entity seeking the Writ of Assistance. The caption has not been changed to preserve the history of the proceeding.

for a Writ of Assistance putting plaintiff in possession of the premises located at 8 Eltham Drive in Eggertsville, New York. Plaintiff had purchased the subject property through a foreclosure sale on March 8, 2011. A referee's deed transferring the property to the plaintiff was executed March 22, 2011. Prior to the motion for the Writ of Assistance being heard, the defendant, Marsha Pillich, filed a motion seeking to vacate the judgment of foreclosure. Plaintiff then sought, and was granted, time to submit responding papers.

The Court has now reviewed the Notice of Motion of the plaintiff; the affirmation of Joseph Radano, Esq. dated September 14, 2011, with attached exhibits in support of the writ of assistance; the motion of the defendant, Marsha Pillich, to vacate the judgment of foreclosure; the affirmation of David S. Widenor, Esq. dated November 30, 2011, with attached exhibits in support of the motion to vacate; the affirmation of Dean M. Drew, Esq. dated January 19, 2012, with attached exhibits; the reply affirmation of David S. Widenor, Esq. dated January 24, 2012, accompanied by the affidavits of Christopher Wyatt dated December 1, 2011, Daniel Edstrom, dated November 30, 2011 and Marsha Pillich, dated January 23, 2012. In addition, the Court has considered oral argument on the motions heard January 26, 2012.

This Court has previously rendered three separate decisions involving the property in question. On December 19, 2003, a written decision and Order was entered by this Court granting plaintiff's motion for summary judgment in the foreclosure action and appointing a referee to determine the amount due. On May 6, 2008, this Court issued a second written decision and Order denying defendant's Order to Show Cause seeking to temporarily stay the foreclosure sale. Then on March 7, 2011 this Court issued a third written decision and Order denying another Order to Show Cause seeking to stay the foreclosure sale. As the Court has noted in those prior decisions,

"Plaintiff is the current holder of a note executed by defendant, Marsha Pillich, on May 12, 1999 securing a mortgage for property at 8 Eltham Drive located in Eggertsville, New York. It remains undisputed that, at some point, defendant ceased payment on the note, the note was called due and the instant foreclosure proceeding was commenced. At that time, Defendant appeared and fought the plaintiff's motion for summary judgment. This Court, by a decision entered December 19, 2003, granted the plaintiff's motion for summary judgment. The Court found that the arguments and submissions by the defendants were "insufficient to show the existence of genuine factual issues relating to a bona fide defense to foreclosure" (see *Mohopac National Bank v Baisley*, 244 AD2d 466). As such, the Court granted the motion for summary judgment."

Defendant's instant motion purports to uncover new evidence that plaintiff was involved in "robo-signing" of mortgage and assignment documents which makes the defendant a victim of fraudulent loan practices. In this Court's view, this is nothing more than a rephrasing and reworking of the claims of fraudulent lending practices by the initial loan provider that were asserted in the original motion for summary judgment entered December 19, 2003. Defendant has been asserting the same claims for the last eight years while failing to make any payments toward a valid debt she incurred in 1999 and stopped paying in 2001.

Once again, there is no basis in law or in fact to grant the relief requested by the defendant. Defendant makes spurious arguments about the filing of affidavits of counsel required by Administrative Orders implemented over seven years after this Court originally reviewed and granted plaintiff's application for summary judgment. Defendant offered nothing but speculation and conjecture that would call into question the plaintiff's entitlement to a judgment of foreclosure that was granted in December of 2004 by this Court.

Plaintiff is entitled to end this saga once and for all. As such, the motion to vacate the judgment of foreclosure is denied and the motion for a Writ of Assistance is granted.

Therefore, it is hereby

ORDERED, that upon delivery of a signed, certified copy of this Order, and upon at least 72 hours written notice, the Sheriff of the County of Erie is hereby directed to forthwith put Waterfall Victoria REO 2011-01, LLC into possession of the premises known as 8 Eltham Drive, Amherst, New York, 14226, more particularly described by the Schedule "A" annexed hereto, and that said Sheriff remove Marsha Pillich, KeyBank National Association, Deborah Mondoux, Thomas J. Gaffney, Trustee in Bkcy, for Project & Joint Ventures International, Inc., Illos Piano Rebuilders and Music Center, Keith Pillich, and any persons claiming under said defendants pursuant to the Judgment of Foreclosure and Sale herein. This Order may be executed as if it were an execution for the delivery of the possession of the premises.


Hon. Christopher J. Burns, J.S.C.

Dated: Buffalo, New York
January 27, 2012

GRANTED

ENTERED:

JAN 27 2012

BY 
ROBERT ADAMSKI
COURT CLERK

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

DOCKET NO. CA 12-00364

PRESENT: SCUDDER, P. J., SMITH, CENTRA, FAHEY, AND CARNI, JJ.

CREDIT-BASED ASSET SERVICING AND SECURITIZATION, LLC,
PLAINTIFF-RESPONDENT,

V

MARSHA PILlich, DEFENDANT-APPELLANT,
ET AL., DEFENDANTS.

Appellant having moved, upon the return of an order to show cause granted by the Honorable Erin M. Peradotto on February 2, 2012, for a preliminary injunction, pursuant to CPLR 5518, pending the hearing and determination of the appeal taken herein from an order of the Supreme Court entered in the Office of the Clerk of the County of Erie on January 27, 2012, and for other relief,

Now, upon reading and filing the affirmation and statement of David S. Widenor, Esq., dated February 1, 2012, and February 16, 2012, said show cause order with proof of service thereof, the affirmation and statement of Dean M. Drew, Esq., dated February 13, 2012, and the affirmation of Ted Eric May, Esq., dated February 13, 2012, and due deliberation having been had thereon,

It is hereby **ORDERED** that the motion is granted to the extent that enforcement of the order entered January 27, 2012, is stayed until March 30, 2012, or until seven days after Supreme Court fixes the amount of the undertaking for an automatic stay pursuant to CPLR 5519 (a) (6), whichever occurs first.

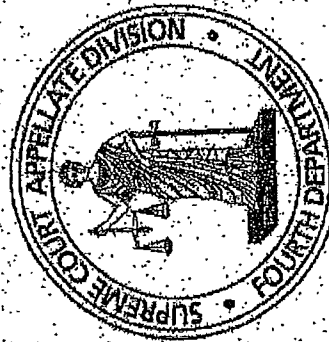
Entered: February 29, 2012

FRANCES E. CAFARELL, Clerk

Supreme Court
APPELLATE DIVISION
Fourth Judicial Department
Clerk's Office, Rochester, N.Y.

I, FRANCES E. CAFARELL, Clerk of the Appellate Division of the Supreme

Court in the Fourth Judicial Department, do hereby certify that this is a true copy of
the original order, now on file in this office.



IN WITNESS WHEREOF, I have hereunto set my
hand and affixed the seal of said Court at the City
of Rochester, New York, this FEB 29 2012

Frances E. Cafarell
Clerk

NYWB-ECF v4.3 Production Database

<https://ecf.nywb.circ2.dcn/cgi-bin/NoticeOfFiling.pl?263511>

Doc 6
0371347

United States Bankruptcy Court
Western District of New York

Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 13 of the United States Bankruptcy Code, entered on 06/26/2012 at 08:00 AM and filed on 06/26/2012.

Marsha M. Pillich
8 Eltham Drive
Amherst, NY 14226
SSN / ITIN: xxx-xx-2691



The case was assigned case number 1-12-12022.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.nywb.uscourts.gov> or at the Clerk's Office, Olympic Towers, Suite 250, 300 Pearl Street, Buffalo, NY 14202.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Lisa Bertino Beaser
Clerk of Court

2012 JUN 26 AM 8:39

LL

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

NOTICE OF ENTRY REQUIRED

IN RE: _____x

CASE NO.: 12-12022

Marsha M. Pillich,

CHAPTER 13

Debtor.

Judge: Hon. Carl L. Bucki

_____x

ORDER VACATING STAY

Waterfall Victoria REO 2011-01, LLC (hereinafter referred to as "Waterfall Victoria"), having moved this Court for an Order Granting Relief From the Automatic Stay, pursuant to Bankruptcy Rule 4001 and 11 U.S.C. §362(d) with proof of service upon the Pro-Se Debtor, U.S. Trustee and the Trustee having been duly filed, and this motion having come on or having been heard on August 13, 2012, and there being no opposition thereto;

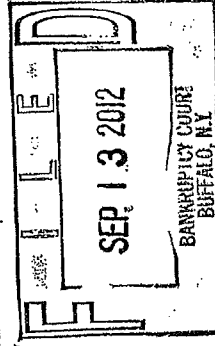
Now upon consideration of the Motion of Waterfall Victoria, this Court finds that adequate notice has been given; that all interested parties have had an opportunity to be heard; that Waterfall Victoria is the owner of the premises located at 8 Eltham Drive, Amherst, NY 14226 and that Waterfall Victoria is entitled to relief under 11 U.S.C. §362(d).

IT IS THEREFORE;

ORDERED, that the stay afforded by 11 U.S.C. §362(a) be, and is hereby, modified to permit Waterfall Victoria, it's successors and/or assigns, to enforce its eviction on the premises located at 8 Eltham Drive, Amherst, New York 14226.

Dated: Buffalo, New York

SEP 13 2012 2012



Carl L. Bucki

Hon. Carl L. Bucki
United States Bankruptcy Judge